REMARKS

The Office Action dated April 1, 2009 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 17, 27 and 28 have been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Claims 1, 2, 5-10, 17-20, 27 and 28 are presently pending.

The Office Action rejected claims 1, 2, 5, 6, 8 and 9 under 35 U.S.C. §101 for allegedly being directed to a process that is not tied to a statutory class of invention. Applicants submit that claim 1 has been amended to recite "initiating, at a network server, a provision of a service for at least two parties...and notifying the network server of the agreement." Support for this amendment is provided on paragraph [0047] of the present application. In operation, the game server conducts the above-noted operations of claim 1 between the two users A and B. The game server or network server is an apparatus that operates on the communications network. In addition, the network server performs the operations of method claim 1, and, thus, is considered a statutory class of invention tied to the method operations of claim 1. Therefore, claim 1 recites method operations which are tied to an apparatus. Withdrawal of the rejection is kindly requested.

Claims 1, 2, 5-10, 17-20, 27 and 28 were rejected under 35 U.S.C. §103(a) as being obvious in view of Young et al. (U.S. Patent Publication No. 2002/0072412),

Brown et al. (U.S. Patent Publication No. 2003/0115203) and further in view of Egendorf (U.S. Patent No. 6,188,944). The Office Action took the position that Young discloses all of the elements of the claims with the exception of communicating at least one message between the at least two parties regarding a principle for paying a fee for the use of the service, and communicating the at least one message between the parties and agreeing between the parties who will pay. The Office Action then relied on Brown and Egendorf to cure these deficiencies of Young. This rejection is respectfully traversed for at least the following reasons.

Claim 1, upon which claims 2 and 4-10 are dependent, recites a method that includes initiating, at a network server, a provision of a service for at least two parties. The method includes verifying that each of the at least two parties is capable of paying for use of the service. The method also includes generating payment information by communicating at least one message between the at least two parties regarding a principle for paying a fee for the use of the service and including the principle in the payment information. The principle includes a definite choice of which of the at least two parties is responsible for paying the fee. The definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least two parties. Communicating the at least one message between the at least two parties includes agreeing, between the at least two parties, to an occurrence that unambiguously defines a party who is responsible for paying for use of the service. The method also includes notifying the network server

of the agreement. The method also provides charging for use of the service based on the payment information.

Claim 17, upon which claims 18-20 are dependent, recites an apparatus that includes an enabler configured to enable simultaneous provision of a service for at least two parties. The apparatus also includes a verifier configured to verify that the at least two parties using the service are capable of paying for use of the service. The apparatus also includes a generator configured to provide payment information for the use of the service by the at least two parties for use in charging for the use of the service by communicating at least one message between the at least two parties regarding a principle for paying a fee for the use of the service and including the principle in the payment information. The principle includes a definite choice of which of the at least two parties is responsible for paying the fee. The definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least two parties. Communicating the at least one message between the at least two parties includes agreeing, between the at least two parties, to an occurrence that unambiguously defines a party who is responsible for paying for use of the service.

Claims 27 and 28 are respective computer program claims and means-plus-function types claims corresponding to one or more of the other independent claims. However, claims 27 and 28 have their own scope.

As will be discussed below, the teachings of Young, Brown and Egendorf fail to disclose all of the elements of the claims, and therefore fail to provide the features discussed above. The rejection is respectfully traversed for at least the following reasons.

Young is directed to an online gaming system that allows multiple players to play online games with one another over the Internet. Players may connect to the online gaming system 100 from their user terminal 116 to a remote server 104. A user interface is used to provide a log-in access page and to display user account information to the player upon receiving access to the online gaming system 100. Once a player has established a connection with the gaming system 100, the user may meet other potential opponents who have also successfully logged onto the gaming system 100 (see paragraph [0018] of Young. The players may be able to negotiate a monetary prize amount which is payable upon a player successfully winning a particular game. An example operation of the online gaming system 100 is illustrated in the flow chart of FIG. 5. A prize incentive module 124 receives the player identifications, the game to be played, the prize amount, and the determined winner split, which may be decided by the players themselves. The only monetary negotiation the players engage is the prize amount.

Young fails to disclose "communicating at least one message between the at least two parties regarding a principle for paying a fee for the use of the service and including the principle in the payment information" and "wherein communicating the at least one message between the at least two parties comprises agreeing, between the at least two parties, to an occurrence that unambiguously defines a party who is responsible for

paying for use of the service", as recited, in part, in independent claim 1 and similarly in independent claims 17, 27 and 28. The Office Action admitted that Young failed to teach these features of the claims (see page 3, paragraph 5 of the Office Action).

Applicants further submit that Young also fails to disclose or suggest "a principle for paying a fee for the use of the service and including the principle in the payment information, the principle comprising a definite choice of which of the at least two parties is responsible for paying the fee, wherein the definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least two parties", as recited in independent claim 1 and similarly in independent claims 17, 27 and 28.

Referring to paragraph [0004] of Young, a prize amount is disclosed as being included for the winner of a game. In particular, Young discloses "allowing the prize amount to be mutually agreed upon by the players." The amount of prize has nothing to do with the fee associated with using a service. In addition, Young discloses collecting all game entry fees prior to distribution of any prize money. Therefore, Young could not possibly offer a "a principle for paying a fee for the use of the service and including the principle in the payment information, the principle comprising a definite choice of which of the at least two parties is responsible for paying the fee, wherein the definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least

two parties", as recited in independent claim 1 and similarly in independent claims 17, 27 and 28.

Young merely discloses using a service among users to play a game and for the winner of the game to collect winnings. In Young, there is no agreement between two parties to pay for any portion of the game experience beyond the initial payment authorization being validated at operation 506. Once validated the only payment being made is to the winner of the game based on the predetermined "prize amount" (see paragraph [0028], lines 15-25 of Young). Furthermore, paragraph [0022] of Young provides additional examples of dividing a prize pot of money (i.e., to the top 3 finishers of a game). However, none of these examples refer to the payment of the service itself. The agreement to play the game initiated by the host in Young has no relationship with the service itself or the fees incurred specifically for the use of the service. As for Brown and Egendorf, both of those additionally cited references do not disclose negotiation of any kind between players or users of a common service. Applicants submit that Brown and Egendorf fail to cure the deficiencies of Young with respect to the features recited in the pending claims.

Brown discloses a call completion system 100 (see FIG. 1 of Brown). In operation, a caller 102 submits a call request to server 110 to connect with a called party 104. Caller 102 identifies called party 104 with a telephone number, e-mail address or another identifier which identifies called party 104. The called party 104 may have a predetermined preference setup to allow caller 102 to be placed as a caller with

immediate service available or conversely as a blocked caller. A database may be used to store the call as a pending request. Ultimately, a classification is used to determine the information that is displayed to the party using the call service.

The Office Action relied on paragraph [0032] of Brown as allegedly disclosing "communicating at least one message between the at least two parties regarding a principle for paying a fee for the use of the service and including the principle in the payment information", as recited in claim 1. Applicants disagree and submit that Brown is disclosing a conference call setup procedure that does not include two parties that are capable of paying for the use of a service and communicating between the parties a message regarding the payment of the service fee.

Referring to paragraph [0032] of Brown, once the system determines that the parties are available (i.e., in communication with the network), a call request may be initiated by establishing a multi-legged procedure or a conference call, which would include various units in the wireless network and/or different carriers. An example is provided where "the party that will pay for the call may specify or request a desired telecommunication carrier or quality of service", and then the "call may be billed to the caller", or, the called party, or, alternatively, "the system may pay for the call and then bill a party."

To further understand the call-related operations disclosed in Brown, paragraph [0027] discloses that "a called party may be notified of a call request before the system attempts to satisfy the request, or may need to approve the request, or the call request

may be automatically queued." For example, the system may initiate electronic mail, instant messaging, and/or paging to notify the called party. Alternatively, the system may simply call the party directly in case of the need to contact the party immediately.

Brown discloses that the "system" handles all of the call-related administrative options and procedures. There is no disclosure of any payment information being communicated between two call parties. There is also no disclosure of any payment information being agreed to during the exchange of a particular message between the two parties. In addition, there is no indication that the call agreement implies that a fee is paid for the use of the service, and the principle in the payment information, is included in the message exchanged between the system and the caller, or, as the claims recite, the two parties themselves.

Paragraph [0032] of Brown clearly discloses that a "party" is billed directly by the system, or, is billed at a later time by the system. Brown's disclosure of a single paying party is contrary to the subject matter recited in the claims which includes at least two users of a service which comprises "agreeing" between the two parties which party pays for the service. The service provider or "system" bills a "caller" or a "called" party. The decision made by the system to bill either one of these parties is not communicated between these parties. Neither party communicates billing information to the other party member. No agreement is made between the parties regarding which party should be responsible to pay for the service.

Referring to the drawings of Brown, FIG. 1 illustrates a caller party 102 and a called party 104 which communicate via system 100. Similarly, FIG. 3 illustrates a system 300 and parties 302 and 304, FIG. 4 illustrates a system 400 with parties 402 and 404, FIG. 5 illustrates a system 500 with parties 502 and 504, and, lastly, FIG. 6 illustrates a system 600 with parties 602 and 604. In each of FIGS. 1 and 3-6, the system is separate and centrally controlled, and, is clearly not one of the individual "called" and/or "caller" parties.

Every example disclosed in Brown refers to the system's overseeing of the management operations of the parties, especially the payment example disclosed in paragraph [0032]. Contrary to the interpretation disclosed in Brown, claim 1 recites "communicating at least one message between the at least two parties regarding a principle for paying a fee for the use of the service and including the principle in the payment information, the principle comprising a definite choice of which of the at least two parties is responsible for paying the fee, wherein the definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least two parties", as recited in independent claim 1 and similarly in independent claims 17, 27 and 28.

Brown does not cure the deficiencies of Young and Egendorf with respect to the claims. In addition to the above noted deficiencies of Young and Brown, Egendorf further fails to disclose the admitted deficiencies of Young and Brown. For instance,

Egendorf does not disclose "a principle for paying a fee for the use of the service and including the principle in the payment information, the principle comprising a definite choice of which of the at least two parties is responsible for paying the fee, wherein the definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least two parties", as recited in independent claim 1 and similarly in independent claims 17, 27 and 28. The service provider, customer and vendor relationships disclosed in Egendorf each fail to disclose the above-noted features of the claims.

Egendorf discloses that there is a third party interacting with the payment process, the parties involved with shopping over the Internet are communicating through a provider, and are not in direct contact or in such a communication model where the parties can reach a direct agreement. Also, in Egendorf, only one party is capable of payment of the service so there is no other information required, as described throughout columns 3 and 4 of Egendorf. For example, as part of the services of the provider to the customers, the provider has a pre-established billing agreement in place with the party with whom the account was established (see column 5, lines 9-12 of Egendorf).

Referring to FIG. 2 of Egendorf, a predetermined agreement is established in operation 11 between the provider and customers and provider and vendors. This agreement is disclosed at the top of column 5 as a payment agreement that the provider will bill the customer and remit a portion to the vendor for goods purchased by the

customer. The provider is not a party that is capable of paying for the use of the service. Only the customer pays for anything throughout the examples disclosed in Egendorf. Although, the provider does offer the vendor a portion of the payment, this fee sharing is not comparable to two parties both being capable of paying for a service and unambiguously defining which one will pay for the use of the service.

At operation 13 of FIG. 2 of Egendorf, transactional information is shared between vendor and customer. This occurs when the customer makes a purchase from vendor, again, only one customer is capable of making the payment. The transactional information is related to address information, product information etc. Similar transaction information is then provided to the provider in operation 14. The next communication is described in operation 15 where the customer account is billed by the provider. Operation 15 includes only one customer capable of paying for services and no agreement or communication between at least two parties capable of paying, and one party actually being selected to pay. Lastly, the provider remits payment to vendor based on a predetermined agreement, however, this payment is based, again, on one customer paying for a single transaction.

The customer is the only paying entity and there is no sharing of the payment information or decision as to which of at least two parties will unambiguously pay for the service. In conclusion, among the three parties in Egendorf, provider, vendor, and customer, each one of these parties is different regarding payment and billing information. The provider pays for nothing, and, at best, is compensated by the vendor

for providing a service (i.e., Internet connectivity). The vendor may offer the provider a portion of the customers payment for borrowing or renting the service providers internet connection. The customer is the only party paying for anything and there is no disclosure of the customer communicating a message between other customers to decide who is paying for a service. The customer stands alone and makes his or her own buying decisions.

Therefore, none of the references disclose or suggest disclose "a principle for paying a fee for the use of the service and including the principle in the payment information, the principle comprising a definite choice of which of the at least two parties is responsible for paying the fee, wherein the definite choice is determined according to a result of a use of the service by one of the at least two parties that is different from a result of a use of the service by the at least one other of the at least two parties", as recited in independent claim 1 and similarly in independent claims 17, 27 and 28.

Therefore, for at least the reasons stated above, Applicants submit that Young, Brown and Egendorf, taken individually or in combination, fail to teach all of the subject matter of independent claim 1, and similarly independent claims 17, 27 and 28. By virtue of dependency, Young also fails to teach the subject matter of dependent claims 2, 5-10 and 18-20. Withdrawal of the rejection of claims 1, 2, 5-10, 17-20, 27 and 28 is kindly requested.

For at least the reasons discussed above, Applicants respectfully submit that the cited references fail to disclose or suggest all of the elements of the claimed invention.

These distinctions are more than sufficient to render the claimed invention unanticipated and unobvious. It is therefore respectfully requested that all of claims 1, 2, 5-10, 17-20, 27 and 28 be allowed, and this application passed to issue

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

Kamran Emdadi
Registration No. 58,823

Customer No. 32294
SQUIRE, SANDERS & DEMPSEY LLP
14TH Floor
8000 Towers Crescent Drive
Vienna, Virginia 22182-6212
Telephone: 703-720-7800
Fax: 703-720-7802

KE:sjm